



Agenda Item #: 05/0705.16-10

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Laurie B. Jester, Senior Planner

DATE: March 7, 2006

SUBJECT: Consideration of Planning Commission Recommendation for City Council 2005-2007 Work Plan Item to Amend the Tree Preservation Regulations, Section 10.52.120 of the Zoning Code and Adoption of New Fees and Fines for Violation of the Ordinance

RECOMMENDATION:

Staff recommends that the City Council **CONDUCT THE PUBLIC HEARING, WAIVE FURTHER READING, INTRODUCE ORDINANCE NO. 2082, AND ADOPT RESOLUTION NO. 6020.**

FISCAL IMPLICATION:

There are no direct fiscal implications associated with the recommended action. Fees and fines for violation of the Ordinance that are collected will be deposited in the City's Tree Restoration Fund.

BACKGROUND:

The City's Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented. After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting and at that meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

In May 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance. In July 2005, the City Council adopted the 2005-2007 Work Plan which included this item as one of

the top Work Plan priority items for the Department, reviewed a status report on the Tree Preservation regulations, and provided direction on revisions to the regulations. The Council felt that the issue that they and the community perceive is that currently we have small homes with large trees and these are being replaced with large homes with small trees, which is changing the character of residential neighborhoods.

On August 24, 2005 the Planning Commission conducted a public hearing, discussed the proposed Code Amendments and adopted Resolution No. PC 05-11, with a 5:0 vote. On September 20, 2005 staff presented the Planning Commission recommendation, including a draft Ordinance, to the City Council at a public hearing. At that meeting the City Council supported the majority of the Planning Commissions recommendations with a few modifications, and asked that staff and the Planning Commission to further study the protected and replacement tree sizes, and contact individuals to provide input on the issue.

On October 26, 2005, the Planning Commission held a public hearing, took public input, provided direction to staff for further revisions to the Tree Ordinance, and continued the public hearing to December 14, 2005. At the December 14th meeting the Commission took further public input at the continued public hearing and adopted Resolution No. PC 05-20 (Attachment C) recommending to the City Council revisions to the Tree Preservation regulations. On February 7, 2006 the City Council held a public hearing, and provided direction to staff for further revisions to the Tree Ordinance and the possible formation of a Citizens Tree Committee.

DISCUSSION:

Current regulations

The City's Tree Preservation Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. Trees that are removed are required to be replaced with a minimum of one 24" box tree. The number, size, species, and location of replacement trees are subject to review and approval by the Director of Community Development. At this time, based on City Council direction, the Ordinance is implemented as more of a "preservation" regulation, not a "removal and replacement" regulation. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property. The attached City Council staff report (Attachment D) provides a complete description of the Tree Permit process.

City Council direction and public comments

At the February 7th City Council meeting the Council opened the public hearing, took community input, and provided direction for further revisions to the Tree Ordinance. The Council asked that the following revisions be made to the Ordinance.

Relocation of Protected Trees

Language has been added to Section D. 9. to clarify that relocation of protected trees is allowed with a permit, if it is determined that relocation will not be detrimental to the health of the tree.

Streetside setback trees

With the revised regulations streetside trees are protected. New language has been added to the Purpose section and to Section D. 7. to indicate that buildings would take precedence over preservation of trees. Since the side yard that streetside trees are located within is quite

narrow, generally 3-5 feet in width is required, it can be difficult in some situations for new construction to work around existing large mature trees without damaging the tree or the root system. The Council did not want to require additional setbacks to accommodate these trees, however improvements should consider existing protected trees and minor changes such as relocating an entry door to accommodate a tree would be a reasonable design change to preserve a protected streetside tree.

Construction Bond or Security

Currently a bond or other financial security is required when work is done in the public right-of-way and when street trees are removed and required to be replaced. Council suggested that a similar type of security be required to ensure that replacement trees are planted on private property and/or that existing trees are protected. Staff has added language to Sections E. and F. which allows staff the ability to require a financial security when appropriate.

Disclosure Form

The Council requested that property owners sign a disclosure or acknowledgement form when there are protected trees on the property. Currently when a property is sold a Residential Property Report is required and one of the items that staff has the ability to check on the form is a statement that indicates "Trees in the front yard and parkway may not be removed without prior approval and a City permit." The Residential Property Report is generally requested by the realtor during escrow as part of the disclosure requirements. This report is required by Code and is signed by the buyer of the property. In response to this form, the City often receives phone calls from new property owners inquiring about the tree protection requirements.

An additional form will be required to be signed by the property owner and the contractor prior to the issuance of permits. This could be similar to the City's current "50% Rule" Acknowledgement Form that is required whenever a construction project is required to be less than 50% in value compared to the existing improvements on the site. Staff and the city Attorney feel that it is not necessary to add language to the Ordinance, however staff will incorporate this change into the standard plan check procedures.

Citizens Committee

A number of residents requested that a citizen's tree committee be formed to serve a variety of functions. The Council requested that staff develop ideas for a mission statement or goals for the group. Staff developed a list and forwarded these ideas to the group for their review and comment. The residents also developed a list of roles. Staff will continue to work with the residents to refine these goals and will present these to the City Council at a later date.

Fines

The Commission and Council felt that fines need to be very high to discourage developers and others from illegally removing trees, and that there should be different fines for the intentional removal of trees or other violations of the Ordinance by people that are aware of the regulations versus unintentional removal by those who are not familiar with the requirements. Revisions related to these recommendations have been incorporated into the attached Resolution. The City Attorney has drafted the Resolution

for fines related to violations of the Tree Preservation regulations. According to the City Attorney, the fines need to have a relationship to the violation and therefore the fine will be the appraised or replacement value of the tree that is illegally removed or damaged, whichever value is higher. The value of individual large trees can be well over \$20,000 each. Each violation will be reviewed individually and the City Attorney will have the ability to take legal action in cases where it is deemed appropriate. The City Attorney will be available to answer any questions related to the Resolution.

Other

It was suggested that a comprehensive list of protected trees be developed similar to the list that is used in the City of Pasadena. This list has over 100 trees, identified by genus, species and trunk size. If a list like this were developed by the City of Manhattan Beach then every tree permit would require an arborist report from the applicant and most would require a follow-up visit from the City arborist to correctly identify the tree species. This would complicate the Tree Permit process, adding an additional expense to both the applicant and the City, and add significantly to the processing time.

As an example, staff recently went out to visit two sites where Tree Permits had been submitted to request approval to remove trees. Both of the requests had written reports from certified arborists and one of the reports the arborist had also consultant with a second arborist. Both of these reports had incorrectly identified the species of the trees. On one of the trees the city's arborist had to take a sample and get opinions from several other certified arborists within the firm in order to correctly identify the species. Correct identification is critical as different species have different growth habits, root structures, pruning requirements, tolerance of pruning, adaptability to construction, grading, and paving, and longevity. Therefore staff supports the consensus of the City Council and is recommending that the Ordinance continue to protect trees 12 inches or greater in trunk diameter.

It was also suggested that realtors be notified of the tree permit regulations and that more outreach to realtors be explored so they can pass information along to new homeowners. As discussed previously, local realtors are well aware of the Tree Permit requirements through the Residential Property Report. Staff also is scheduled to speak before a group of about 100 realtors regarding the Tree Permit regulations and other City requirements and will continue this outreach to local realtors.

Staff also made one further language clarification change. The pruning standards (Sections H. 4. and 5.) have been changed to reference American National Standards Institute (ANSI A300) requirements, which have now been adopted by the International Society of Arboriculture (ISA) as the industry standard, but no permit would be required for pruning.

Other revisions previously approved in concept by City Council

Attached in the February 7, 2006 staff report (Exhibit D) is a summary of the revisions to the Tree Ordinance as directed by the City Council on September 20, 2005 and February 7, 2006. Staff believes that these revisions provide a balanced approach to addressing all of the views expressed by the Planning Commission, community, and the City Council. The proposed revisions will clarify the City's Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

CONCLUSION:

The proposed revisions to the Tree Preservation regulations are intended to meet the City Council's goal of preserving and enhancing the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The revisions are also intended to simplify the regulations and make them easier to enforce.

Staff requests that the City Council hold the public hearing and introduce the attached Ordinance. All of the proposed changes to the existing regulations are shown as redline/strikeout text. Staff also requests that the city Council adopt the attached Ordinance establishing fees and fines for violation of the Tree Ordinance.

- Attachments:
- A. Draft City Council Ordinance No. 2082
 - B. Draft City Council Resolution No. 6020- Fees and fines for violation of Tree Ordinance
 - C. Planning Commission Resolution No. PC 05-20
 - D. City Council minute excerpts, and staff report, excluding attachments – February 7, 2006
 - E. E-mail correspondence- February 28, 2006

ORDINANCE NO. 2082

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING AMENDMENTS TO THE CITY ZONING CODE (SECTION 10.52.120) TO REVISE THE TREE PRESERVATION REGULATIONS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach, California, does hereby find, determine and declare as follows:

WHEREAS, the City's Tree Preservation Ordinance was originally adopted August 19, 1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code, and the Ordinance originally applied only to the Tree Section, generally bounded by Rosecrans Avenue, Blanche Road, Valley Drive and Sepulveda Boulevard, and;

WHEREAS, on May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance, and;

WHEREAS, on June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan, which included an item to study possible revisions to the Tree Ordinance, and;

WHEREAS, on July 5, 2005, the City Council amended and formally adopted the 2005-2007 Work Plan, and;

WHEREAS, on July 26, 2005 the City Council and Planning Commission held a joint Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for the Community Development Department, and;

WHEREAS, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on August 24, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and adopted Resolution No. PC 05-11 recommending to the City Council revisions to the Tree Ordinance, and;

WHEREAS, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

WHEREAS, public noticing included a one-quarter page display ad published on August 11, 2005 in a newspaper of general circulation (Beach Reporter), and;

WHEREAS, pursuant to applicable law, the City Council conducted a duly noticed public hearing on September 20, 2005 regarding the Planning Commission's recommendation regarding the proposed Code Amendments (Resolution No. PC 05-11) related to revisions to the tree preservation regulations, and public testimony was invited and received, and the Council directed staff and the Planning Commission to revisit portions of the proposed Ordinance, and;

WHEREAS, the public hearing held by the City Council was advertised by a one-quarter page display ad published on September 1, 2005 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

WHEREAS, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on October 26, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and after accepting public input and discussing the item, provided direction to staff for revisions to the Ordinance and continued the public hearing to December 14, 2005, and adopted Resolution No. PC 05-20, recommending to the City Council revisions to the Tree Preservation regulations, and;

WHEREAS, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

WHEREAS, public noticing included a one-quarter page display ad published on October 13, 2005 in a newspaper of general circulation (Beach Reporter), and;

WHEREAS, pursuant to applicable law, the City Council of the City of Manhattan Beach conducted a public hearing on February 7, 2006, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and after accepting public input and discussing the item, provided direction to staff for further revisions to Draft Ordinance No. 2082, and;

WHEREAS, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

WHEREAS, the public hearing held by the City Council was advertised by an ad published on January 26, 2006 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

WHEREAS, pursuant to applicable law, the City Council of the City of Manhattan Beach conducted a public hearing on March 7, 2006, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and after accepting public input and discussing the item, introduced Ordinance No. 2082, for revisions to the Tree Preservation regulations, and;

WHEREAS, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

WHEREAS, the public hearing held by the City Council was advertised by a 1/4 page ad published on February 24, 2006 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

WHEREAS, the applicant for the subject project is the City of Manhattan Beach; and,

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

WHEREAS, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code, and;

WHEREAS, the City Council finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code; and,

WHEREAS, the City Council made the following findings with regard to the proposed changes:

1. The proposed amendments are consistent with the City of Manhattan Beach General Plan as follows:

Goal LU-2: Encourage the provision and retention of private landscaped open space.

Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

Goal LU-3: Achieve a strong, positive community aesthetic.

Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

- 2. The purpose of the proposed amendments include, but are not limited to, the following:
 - A. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
 - B. Provide internal consistency within the existing Tree Preservation regulations;
 - C. Ensure that the purpose as stated within the regulations is met;
 - D. Preservation and retention of trees for future generations;
 - E. Adequate size replacement trees in relationship to the size of trees that are removed; and,
 - F. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.

- 3. The City Council also finds as follows:
 - A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
 - B. An exemption to this requirement is provided for when an "emergency" exists;
 - C. Because this section is vague as to what constitutes an "emergency" it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.
 - D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for "emergency" reasons and to insure that public safety is the real reason.

SECTION 2. The City Council of the City of Manhattan Beach hereby amends Section 10.52.120 of Title 10, of the Manhattan Beach Municipal Code, entitled Tree preservation and restoration in residential zones, Area Districts I and II as follows:

***10.52.120 Tree Preservation and Restoration in Residential Zones Area Districts I and II**

"A. Purpose. Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to provide cooling shade and beauty, increase property values, minimize spread of disease to healthy trees, conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. These regulations strive to preserve and enhance the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible; residential buildings shall take precedence over the preservation of trees. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

B. General Requirements.

1. Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed, or relocate any protected tree as herein defined, from residentially zoned properties within Area Districts I and II, without first obtaining a permit to do so in

accordance with the procedures set forth in this section.

2. No person shall directly or indirectly neglect, abuse, damage, mutilate, injure or harm any protected tree as herein defined, from residentially zoned properties within Area Districts I and II.

C. Definitions.

1. "Protected tree" shall include: any species of tree, (excluding deciduous fruit-bearing trees and Washingtonia species palms) the trunk of which is located at least partially within the required front yard or streetside yard (on corner lots) of a site, with a trunk diameter of twelve inches (12") or greater or multiple trunks totaling twelve inches (12") in diameter or greater at a height of four and one-half feet (4.5') from existing grade; and any replacement tree required pursuant to this section.

2. A "tree permit" is a permit required for the removal, relocation or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 1/8 inch = 1 foot, minimally) with all trees on the subject property identified by location, size and species, including:

a. footprint of all existing and proposed buildings and/or additions to buildings on the property

b. location of all trees within the front and streetside yards, in the adjacent public right-of-way and on adjacent properties within 10 feet of the subject property adjacent to the front and streetside yards

c. size (diameter and height) and species of each tree

d. location of drip line for each tree

e. designation of tree(s) to be removed, saved, relocated and/or replaced

f. proposed location, size and type of replacement tree(s)

g. photos of all trees in front and streetside yards.

D. Preservation of Trees During Grading and Construction Operations.

1. All protected trees, as defined above, shall be preserved and protected, and may be only be removed or relocated with prior approval of a tree permit provided they are replaced or relocated in accordance with the provisions of this Section.

2. Trees required to be retained shall be protected during demolition, grading, and construction operations by methods subject to the approval of the Community Development Director.

3. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. Advisory sign(s) that identify the tree protection requirements shall be clearly posted on the site. All construction shall preserve and protect the health of trees:

a. Remaining in place

b. Being relocated

c. Planted to replace those removed

d. Adjacent to the subject property.

5. Any tree which is adjacent to the subject property and may be potentially impacted by construction activity on the subject property shall be protected pursuant to the provisions of this chapter.

6. No grading or construction, including structures, paving, and walls, that disrupts the root system on private as well as public property, shall be permitted without prior approval by the Community Development Director. As a guideline, no cutting of roots over 2 inches in diameter should occur within the drip line of the tree as measured at ground level. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. Residential buildings shall take priority over tree preservation, however alternative designs and materials, shall be considered and implemented as feasible.

8. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible.

9. Relocation of protected trees shall only be allowed if the Community Development Director determines that the relocation will not be detrimental to the health of the tree or to other protected trees.

10. No fill material shall be placed within the drip line of any tree.

11. The Community Development Department may impose special measures determined necessary to preserve and protect the health of trees to remain on site.

E. Tree Permit Applications - without Building Permit.

1. Any person desiring to remove or relocate one or more protected trees shall obtain a Tree Permit from the Community Development Department. A fee, as specified in the City's Fee Resolution, shall may be required for a Tree Permit.

2. Tree Permit applications shall include a Tree Plan, and written proof of neighbor notification pursuant to applicable permit instructions and may also include ~~or~~ an arborist's report ~~or verification of a potential safety risk~~

3. A bond, cash deposit or other financial security, may be required to ensure required replacement trees are planted and/or that existing protected trees are properly protected, as determined to be appropriate by the Community Development Director.

4. The Community Development Director, when approving tree permits, shall determine the adequacy and appropriateness of the submitted plan, neighbor input, and other related information.

F. Tree Permit - with Building Permit.

1. Application for a Building Permit shall ~~may~~ require a Tree Permit and Plan as defined above, if protected trees are located on the property.

2. A Tree Permit shall be required if the proposed project may impact existing trees in the front or streetside yard of the subject property even though removal is not planned.

3. A fee, as specified in the City's Fee Resolution, shall be required for a Tree Permit.

4. A bond, cash deposit or other financial security, may be required to ensure required replacement trees are planted and/or that existing protected trees are properly protected, as determined to be appropriate by the Community Development Director.

5. Any new residential construction project in Area Districts I and II which exceeds fifty-percent (50%) valuation (total estimated cost of reconstructing the entire structure as defined by Section 10.68.030 of the Manhattan Beach Municipal Code) shall be required to plant a minimum of one new thirty-six inch (36") box tree, unless the Director of Community Development determines that it is inappropriate to require additional tree(s) on the property.

G. Replacement Trees. Required replacement trees shall be minimum ~~twenty-four inch (24") boxed trees~~ thirty-six inch (36") box trees for each protected tree removed of an appropriate species and must be planted prior to final inspection. Actual sizes, species, location, and quantities of replacement trees are subject to Community Development Director approval. The City street tree list may be used as a guideline by the Director in determining appropriate replacement tree(s). In no case shall A combination of protected and replacement tree quantities shall not result in less than one protected tree per lot or thirty feet (30') of site ~~frontage storage~~ frontage. If the Director of Community Development determines that there is not adequate room on the property for replacement tree(s) due to the number of existing trees to remain, then the requirement for replacement trees may be modified or waived.

H. Exemptions. Tree removals and alterations exempt from the requirements of this section are as follows:

1. Removal in case of imminent emergency caused by the hazardous or dangerous condition of a tree, requiring immediate action for the safety of life or property (e.g., a tree about to topple onto a dwelling due to heavy wind velocities) with the prior approval of the Director of Community Development or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.

2. Removal of any tree that is determined to be a public nuisance in accordance with Section 7.32.070, with prior approval of the Directors of Community Development and Public Works or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.

2. Removal of deciduous, fruit-bearing trees, *Washingtonia robusta*, or *Washingtonia filifera*.

3. Public Utility actions, under the jurisdiction of the Public Utilities Commission of the State of California, as may be necessary to comply with their safety regulations, or to maintain the safe operation of the facilities.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

5. Cutting of tree branches and roots to the extent that the pruning complies with the American National Standards Institute (ANSI A300) requirements and does not damage or potentially damage the health and structure of the tree(s).

I. Non-liability of City. Nothing in this Ordinance shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of any private property shall have a duty to keep the trees upon the property and under his control in a safe and healthy condition.

J. Violation/Penalties. Violation of this chapter shall be punishable as a misdemeanor or

an infraction subject to the discretion of the City Prosecutor with the following additional penalties:

1. Suspension, Revocation, and Restoration: In addition to any other penalties allowed by this Code, the Director of Community Development may suspend any Tree Permit. The Planning Commission or City Council may suspend the Tree Permit for a Discretionary Project upon a finding at a public hearing that a violation of conditions of approval has occurred.

2. Stop Work Orders: Whenever any construction or work is being performed contrary to the provisions of this section or condition of approval of the applicable discretionary project the Director of Community Development may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No work shall be allowed until the violation has been rectified and approved by the Director of Community Development.

3. After-the-Fact Permit Fees: The standard permit fee shall be doubled for tree removals or other work requiring a tree permit pursuant to this section when commenced prior to issuance of said permit."

K. Administrative Fines. The Director of Community Development may impose a fine against any person who is in violation of any provision of this section. Such fine shall be a range as specified in the City fee Resolution. The proceeds of all administrative fines imposed under this section shall be placed in a "Tree Canopy Restoration Fund" to be used solely for the replacement and maintenance of trees in the public right of way or on public property within the City.

1. Any person upon whom a fine is considered to be imposed pursuant to this section shall be entitled to a written notice of the pending decision of the imposition of the fine within ten (10) calendar days of the decision of the imposition of the fine. The notice shall state the amount of the fine, the reason for the proposed imposition of the fine and the authority for imposing the fine. The notice shall also state that the person upon whom the fine is proposed to be imposed has a right to request a hearing to protest the proposed decision of imposition of the fine and the time and method by which a hearing may be requested.

2. Any person upon whom a fine authorized by this section is proposed to be imposed may request, in writing, a hearing to protest the proposed fine. The request must be filed with the City Clerk within ten (10) calendar days from the mailing date of the notice of the proposed fine. The failure to timely file a written request for a hearing shall constitute a waiver of the right to a hearing.

3. Upon timely receipt of a request for a hearing the City shall, within ten (10) calendar days of receipt of such a request hold a hearing to be presided over by the Director of Community Development or his or her designee. This presiding officer shall determine the procedure and rules for the conduct of the hearing. The ruling of the presiding officer, notwithstanding any other provision of this code shall be final.

4. If the Director determines that a fine is due, and the fine imposed by this section is not paid within fifteen (15) calendar days of its becoming due and payable the City may file a lien in the amount of the fine plus interest at the legal rate, which may be recorded on any property owned by the individual subject to the fine which is located in the City of Manhattan Beach.

5. In the event that a civil action is filed regarding any provision of this subsection "K" the City shall be entitled to attorney fees if it prevails.

SECTION 3. All other provisions of the City of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the City of Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 6. A staff review of the proposed amendments per Section 2 of this Ordinance is hereby directed to occur approximately twelve (12) months after the effective date of this Ordinance.

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SECTION 7. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 8. The City Clerk shall certify to the passage and adoption of this ordinance shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting of said Council at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published once in a weekly newspaper of general circulation, printed, published and circulated within the City of Manhattan Beach, California and which is hereby designated for that purpose.

PASSED, APPROVED AND ADOPTED this 21st day of March, 2006.

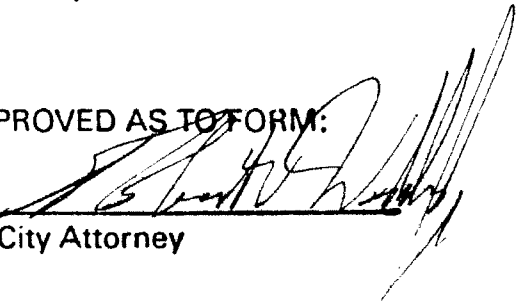
AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor of the City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 

City Attorney

RESOLUTION NO. 6020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING THE SCHEDULE OF FEES TO ADD FINES AND PENALTIES FOR VIOLATIONS OF THE CITY TREE ORDINANCE

WHEREAS, the Community Development Department of the City has reviewed the fee schedule and made certain recommendations to the City Council; and

WHEREAS, the schedule of fees for permits and services represents reimbursement for cost incurred by the City in providing direct services to particular individuals or groups rather than to the general populace of the City of Manhattan Beach; and

WHEREAS, it is equitable that the City of Manhattan Beach be compensated for providing such direct services.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY DECLARE, FIND, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby resolves as follows:

Resolution No. 5904, the City's Resolution of Fees is hereby amended to add the following provision:

"COMMUNITY DEVELOPMENT"

TASK	DESCRIPTION	DEPT	REFERENCE	CURRENT FEE
Tree removal or damaging tree on private property	Penalty for illegal removal or damage of private property trees	Community Development	MBMC 10.52.120	Appraised value or replacement value of removed or damaged tree, whichever is higher

SECTION 2. All other provisions of Resolution No. 5904 shall remain in full force and effect.

SECTION 3. The City Manager shall have the authority to interpret the provisions of this resolution for purposes of resolving ambiguities. The City Manager shall have the authority to authorize and require reasonable compensation for the temporary use of City property or receipt of City services not otherwise provided for by City resolution or ordinance.

SECTION 4. This resolution shall take effect immediately upon adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this resolution; shall cause the same to be Councilmembers voting for and against this Resolution and shall post in the office of the City Clerk a certified copy of the full text of this Resolution along with the names of those City Councilmembers voting for and against the Resolution.

SECTION 6. Staff will maintain the year the fee was last increased and accumulate CPI changes.

PASSED, APPROVED AND ADOPTED this 7th day of March, 2006.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

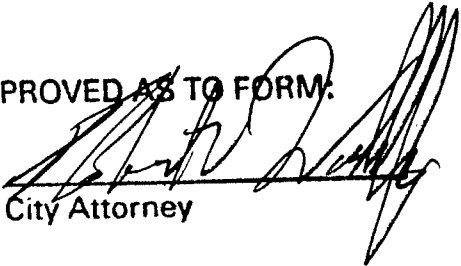
ATTEST:

City Clerk

APPROVED AS TO FORM:

By

City Attorney



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**RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MANHATTAN BEACH
RECOMMENDING APPROVAL OF AMENDMENTS
TO THE CITY ZONING CODE (SECTION 10.52.120)
TO REVISE THE TREE PRESERVATION
REGULATIONS**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH
DOES HEREBY RESOLVE AS FOLLOWS:**

WHEREAS, the City's Tree Preservation Ordinance was originally adopted August 19, 1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code, and the Ordinance originally applied only to the Tree Section, generally bounded by Rosecrans Avenue, Blanche Road, Valley Drive and Sepulveda Boulevard, and;

WHEREAS, on May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance, and;

WHEREAS, on June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan, which included an item to study possible revisions to the Tree Ordinance, and;

WHEREAS, on July 5, 2005, the City Council amended and formally adopted the 2005-2007 Work Plan, and;

WHEREAS, on July 26, 2005 the City Council and Planning Commission held a joint Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for the Community Development Department, and;

WHEREAS, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on August 24, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and adopted Resolution No. PC 05-11 recommending to the City Council revisions to the Tree Ordinance, and;

WHEREAS, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

WHEREAS, public noticing included a one-quarter page display ad published on August 11, 2005 in a newspaper of general circulation (Beach Reporter), and;

WHEREAS, pursuant to applicable law, the City Council conducted a duly noticed public hearing on September 20, 2005 regarding the Planning Commission's recommendation regarding the proposed Code Amendments (Resolution No. PC 05-11) related to revisions to

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the tree preservation regulations, and public testimony was invited and received, and the Council directed staff and the Planning Commission to revisit portions of the proposed Ordinance, and;

WHEREAS, the public hearing held by the City Council was advertised by a one-quarter page display ad published on September 1, 2005 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

WHEREAS, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on October 26, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and after accepting public input and discussing the item, provided direction to staff for revisions to the Ordinance and continued the public hearing to December 14, 2005, and;

WHEREAS, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

WHEREAS, public noticing included a one-quarter page display ad published on October 13, 2005 in a newspaper of general circulation (Beach Reporter), and;

WHEREAS, the applicant for the subject project is the City of Manhattan Beach; and,

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

WHEREAS, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code, and;

WHEREAS, the Planning Commission finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code; and,

WHEREAS, the Planning Commission made the following findings with regard to the proposed changes:

1. The proposed amendments are consistent with the City of Manhattan Beach General Plan.

Goal LU-2: Encourage the provision and retention of private landscaped open space.

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Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

Goal LU-3: Achieve a strong, positive community aesthetic.

Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

2. The purpose of the proposed amendments include, but are not limited to, the following;
 - A. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
 - B. Provide internal consistency within the existing Tree Preservation regulations;
 - C. Ensure that the purpose as stated within the regulations is met;
 - D. Preservation and retention of trees for future generations;
 - E. Adequate size replacement trees in relationship to the size of trees that are removed; and,
 - F. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.

3. The Planning Commission also finds as follows:
 - A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
 - B. An exemption to this requirement is provided for when an "emergency" exists;
 - C. Because this section is vague as to what constitutes an "emergency" it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.

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- D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for "emergency" reasons and to insure that public safety is the real reason.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Manhattan Beach hereby recommends APPROVAL of the proposed amendments to the Manhattan Beach Municipal Code (Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II) as follows:

"10.52.120 Tree Preservation and Restoration in Residential Zones Area Districts I and II

"A. **Purpose.** Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to provide cooling shade and beauty, increase property values, minimize spread of disease to healthy trees, conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. These regulations strive to preserve and enhance the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

B. **General Requirements.**

1. Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed, or relocate any protected tree as herein defined, from residentially zoned properties within Area Districts I and II, without first obtaining a permit to do so in accordance with the procedures set forth in this section.

2. No person shall directly or indirectly neglect, abuse, damage, mutilate, injure or harm any protected tree as herein defined, from residentially zoned properties within Area Districts I and II.

C. **Definitions.**

1. "Protected tree" shall include: any species of tree, (excluding deciduous fruit-bearing trees and Washingtonia species palms) the trunk of which is located at least partially within the required front yard or streetside yard (on corner lots) of a site, with a trunk diameter of twelve inches (12") or greater or multiple trunks totaling twelve inches (12") in diameter or greater at a height of four and one-half feet (4.5') from existing grade; and any replacement tree required pursuant to this section.

2. A "tree permit" is a permit required for the removal or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 1/8 inch = 1 foot, minimally) with all trees on the subject property identified by location, size and species, including:

a. footprint of all existing and proposed buildings and/or additions to buildings on the property

b. location of all trees within the front and streetside yards, in the adjacent public right-of-way and on adjacent properties within 10 feet of the subject property adjacent to the front and streetside yards

c. size (diameter and height) and species of each tree

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- d. location of drip line for each tree
- e. designation of tree(s) to be removed, saved, and/or replaced
- f. proposed location, size and type of replacement tree(s)
- g. photos of all trees in front and *streetside* yards.

D. Preservation of Trees During Grading and Construction Operations.

1. All protected trees located in the front and streetside yards with a twelve (12") inch or greater trunk diameter at a height of four and one-half feet (4.5') from existing grade, shall be protected and may be only be removed or relocated with prior approval of a tree permit provided they are replaced in accordance with the provisions of this Section.

2. Trees required to be retained shall be protected during demolition, grading, and construction operations by methods subject to the approval of the Community Development Director.

3. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. Advisory sign(s) that identify the tree protection requirements shall be posted on the site. All construction shall preserve and protect the health of trees:

- a. Remaining in place
- b. Being relocated
- c. Planted to replace those removed
- d. Adjacent to the subject property.

5. Any tree which is adjacent to the subject property and may be potentially impacted by construction activity on the subject property shall be protected pursuant to the provisions of this chapter.

6. No construction, including structures, paving, and walls, that disrupts the root system on private as well as public property, shall be permitted without prior approval by the Community Development Director. As a guideline, no cutting of roots over 2 inches in diameter should occur within the drip line of the tree as measured at ground level. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. No fill material shall be placed within the drip line of any tree.

8. The Community Development Department may impose special measures determined necessary to preserve and protect the health of trees to remain on site.

E. Tree Permit Applications - without Building Permit.

1. Any person desiring to remove or relocate one or more protected trees shall obtain a Tree Permit from the Community Development Department. A fee, as specified in the City's Fee Resolution, shall may be required for a Tree Permit.

2. Tree Permit applications shall include a Tree Plan, and written proof of neighbor notification pursuant to applicable permit instructions and may also include ~~or~~ an arborist's report. ~~or verification of a potential safety risk.~~

3. The Community Development Director, when approving tree permits, shall determine the adequacy and appropriateness of the submitted plan, neighbor input, and other related information.

F. Tree Permit - with Building Permit.

1. Application for a Building Permit shall may require a Tree Permit Plan as defined above, if protected trees are located on the property.

2. A Tree Permit shall be required if the proposed project may impact existing trees in the front or streetside yard of the subject property even though removal is not planned.

3. A fee, as specified in the City's Fee Resolution, shall be required for a Tree Permit.

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4. Any new residential construction project in Area Districts I and II which exceeds fifty-percent (50%) valuation (total estimated cost of reconstructing the entire structure as defined by Section 10.68.030 of the Manhattan Beach Municipal Code) shall be required to plant a minimum of one new thirty-six inch (36") box tree, unless the Director of Community Development determines that it is inappropriate to require additional tree(s) on the property.

G. **Replacement Trees.** Required replacement trees shall be minimum ~~twenty-four inch (24") boxed trees~~ thirty-six inch (36") box trees for each protected tree removed of an appropriate species and must be planted prior to final inspection. Actual sizes, species, location, and quantities of replacement trees are subject to Community Development Director approval. The City street tree list may be used as a guideline by the Director in determining appropriate replacement tree(s). ~~In no case shall~~ A combination of protected and replacement tree quantities shall not result in less than one protected tree per lot or thirty feet (30') of site frontage ~~storage~~. If the Director of Community Development determines that there is not adequate room on the property for replacement tree(s) due to the number of existing trees to remain, then the requirement for replacement trees may be modified or waived.

H. **Exemptions.** Tree removals and alterations exempt from the requirements of this section are as follows:

1. Removal in case of imminent emergency caused by the hazardous or dangerous condition of a tree, requiring immediate action for the safety of life or property (e.g., a tree about to topple onto a dwelling due to heavy wind velocities) with the prior approval of the Director of Community Development or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.

2. Removal of any tree that is determined to be a public nuisance in accordance with Section 7.32.070, with prior approval of the Directors of Community Development and Public Works or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.

2. Removal of deciduous, fruit-bearing trees, Washingtonia robusta, or Washingtonia filifera.

3. Public Utility actions, under the jurisdiction of the Public Utilities Commission of the State of California, as may be necessary to comply with their safety regulations, or to maintain the safe operation of the facilities.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

5. Cutting of tree branches and roots to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

I. **Non-liability of City.** Nothing in this Ordinance shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of any private property shall have a duty to keep the trees upon the property and under his control in a safe and healthy condition.

J. **Violation/Penalties.** Violation of this chapter shall be punishable as a misdemeanor or an infraction subject to the discretion of the City Prosecutor with the following additional penalties:

1. **Suspension, Revocation, and Restoration:** In addition to any other penalties allowed by this Code, the Director of Community Development may suspend any Tree Permit. The Planning Commission or City Council may suspend the Tree Permit for a Discretionary Project upon a finding at a public hearing that a violation of conditions of approval has occurred.

2. **Stop Work Orders:** Whenever any construction or work is being

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performed contrary to the provisions of this section or condition of approval of the applicable discretionary project the Director of Community Development may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No work shall be allowed until the violation has been rectified and approved by the Director of Community Development.

3. **After-the-Fact Permit Fees:** The standard permit fee shall be doubled for tree removals or other work requiring a tree permit pursuant to this section when commenced prior to issuance of said permit.”

K. **Administrative Fines.** The Director of Community Development may impose a fine against any person who is in violation of any provision of this section. Such fine shall be a range as specified in the City fee Resolution. The proceeds of all administrative fines imposed under this section shall be placed in a “Tree Canopy Restoration Fund” to be used solely for the replacement and maintenance of trees in the public right of way or on public property within the City.

1. Any person upon whom a fine is considered to be imposed pursuant to this section shall be entitled to a written notice of the pending decision of the imposition of the fine within ten (10) calendar days of the decision of the imposition of the fine. The notice shall state the amount of the fine, the reason for the proposed imposition of the fine and the authority for imposing the fine. The notice shall also state that the person upon whom the fine is proposed to be imposed has a right to request a hearing to protest the proposed decision of imposition of the fine and the time and method by which a hearing may be requested.

2. Any person upon whom a fine authorized by this section is proposed to be imposed may request, in writing, a hearing to protest the proposed fine. The request must be filed with the City Clerk within ten (10) calendar days from the mailing date of the notice of the proposed fine. The failure to timely file a written request for a hearing shall constitute a waiver of the right to a hearing.

3. Upon timely receipt of a request for a hearing the City shall, within ten (10) calendar days of receipt of such a request hold a hearing to be presided over by the Director of Community Development or his or her designee. This presiding officer shall determine the procedure and rules for the conduct of the hearing. The ruling of the presiding officer, notwithstanding any other provision of this code shall be final.

4. If the Director determines that a fine is due, and the fine imposed by this section is not paid within fifteen (15) calendar days of its becoming due and payable the City may file a lien in the amount of the fine plus interest at the legal rate, which may be recorded on any property owned by the individual subject to the fine which is located in the City of Manhattan Beach.

5. In the event that a civil action is filed regarding any provision of this subsection “K” the City shall be entitled to attorney fees if it prevails.

SECTION 3. A staff review of the proposed amendments is hereby directed to occur approximately twelve (12) months after the effective date of the City Council approved Ordinance.

SECTION 4. Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the

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proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

SECTION 5. If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 6. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of December 14, 2005 and that said Resolution was adopted by the following votes:

AYES: Chairperson Savikas, Vice-chair Simon,
Commissioner Lesser, Commissioner Bohner
NOES: None
ABSENT: Commissioner Schlager
ABSTAIN: None



RICHARD THOMPSON
Secretary to the Planning Commission



SARAH BOESCHEN
Recording Secretary

RESOLUTION NO. 6016

~~A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AN AGREEMENT BETWEEN THE CITY OF MANHATTAN BEACH AND THE CITY OF HAWAIIAN GARDENS REGARDING THE EXCHANGE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR THE FISCAL YEAR 2006-2007~~

~~**MOTION:** Councilmember Montgomery moved to authorize the City Manager to execute the draft Agreement with the City of Hawaiian Gardens; approve an allocation of General Funds received to the public service agencies listed in the staff report; and approve the contract with the Beach Cities Health District for the Senior Care Manager. The motion was seconded by Councilmember Aldinger and passed by the following unanimous roll call vote:~~

- ~~Ayes: Aldinger, Montgomery, Fahey, Tell and Mayor Ward
Noes: None.
Absent: None.
Abstain: None.~~

~~06/0207.16 Consideration of the Planning Commission Recommendation for the City Council 2005-2007 Work Plan Item to Amend the Tree Preservation Regulations, Section 10.52.120 of the Zoning Code~~

Noting the 2 public comment letters distributed to the Council on the dais, Senior Planner Laurie Jester addressed Council with a PowerPoint presentation on the Tree Preservation Ordinance including the following: background information; current regulations; issues considered by the City Council and the Planning Commission; community input; revisions previously approved in concept; proposed revisions; and enforcement.

Councilmember Aldinger requested additional input on the success of the fines and penalties for removing trees without a permit.

Senior Planner Jester stated that fines for removing trees without a permit are very high; that the fines increase for repeated offenders; that the City is aware of only one individual who is a repeat offender; and that these fines seem to have dissuaded one-time violators.

Councilmember Fahey suggested that the City provide Tree regulations to realtors to pass on to newcomers to Manhattan Beach so that they do not unknowingly violate the Tree Ordinance. Referring to staff's recommendation that a citizens' committee not be established until the twelve month review of the Ordinance, she asked what role such a committee would assume.

Senior Planner Jester explained that while several citizens voiced an interest in taking on a very active role in reviewing tree permits, the possible role of the committee, as suggested by the Planning Commission, was in an advisory capacity to assist in implementing the Tree Ordinance and help protect trees.

In response to Mayor Pro Tem Tell's comment on the difficulty of defining "mature" trees and the question regarding if that is why they are now defined as those having a 12" or larger trunk, Senior Planner Jester stated that staff discussed the definition of "mature" trees with the City's arborist extensively and also examined other cities' definitions.

Councilmember Aldinger noted the positive aspects of the mature tree list compiled by the City of Pasadena.

Relating her understanding that tree issues are taking up an increased amount of staff's time, Councilmember Fahey asked if it would be of assistance to staff for residents knowledgeable in this area to assist them to which Senior Planner Jester indicated that it would be something to consider.

Senior Planner Jester clarified for Councilmember Montgomery that the fines implemented for intentionally removing trees were less than \$10,000 and more than \$5,000 and that West Coast Arborists is currently on retainer with the City.

At the request of Mayor Pro Tem Tell, Senior Planner Jester outlined the standards for granting a tree removal permit and replacing trees that have been removed.

Mayor Ward requested additional clarification regarding the role of the citizens' committee, as well as safeguards pertaining to trees in street side setbacks.

Senior Planner Jester shared input on current and proposed requirements for trees in street side setbacks and related her impression that residents would like to take on a number of different roles, including observing tree issues in the community and approving tree permits; however, there was no direction in this regard from the Planning Commission.

Senior Planner Jester explained the inclusion of a permit for tree relocation in the proposed Tree Ordinance and clarified that a tree permit would be required for tree relocation to enable staff to make a determination on the feasibility of relocating the tree.

Mayor Ward opened the Public Hearing at 9:05 p.m.

Patrick McBride, 5th Street and Peck Avenue, related his understanding that Redondo Beach residents can access tree permit information on their City's website. He felt that a tree inventory would be helpful; requested input on procedures to handle the problem of neighbors "butchering" another property owner's trees and suggested that fines related to tree removal without permits be used to enhance the City's tree program.

Joe Moore, 200 Block of South Ardmore Avenue, shared information about two trees in the vicinity of 1st Street and Ardmore Avenue that died and were blown down during a big wind. He also commented that many trees along Veterans' Parkway are dying as a result of tree trimmers and asked that City staff walk through that area to examine this problem.

Whitney Flore, 36th Street & Alma, said that, while many aspects of the proposed Tree Ordinance are admirable, a certified arborist should be involved throughout the City's tree permit process; that there should be more than a one-to-one tree replacement ratio; that tree replacement should be throughout the lot, not just within the first twenty feet; and that the fines for tree removal, without a permit, should be very stiff.

Greg Robinett, 400 Block of 27th Street, voiced his opinion that the replacement of trees, shrubs and all plants, in existence many years ago, should be addressed. He provided Council with a letter and photographs showing the type of plants he recommends be added to the proposed Tree Ordinance.

Karol Wahlberg, No Address Provided, stated that tree removal fines should be much stronger; that a citizens' committee is absolutely necessary as it could review the replacement tree list; and that much attention should be given to "re-foresting" Manhattan Beach with trees with a large canopy. She related her understanding that the City of Miami replaced some Palm trees with other types of trees having large canopies.

Mark Quigley, 700 Block of 19th Street, pointed out that the regulations recommended by the Planning Commission will be a waste of time if they are not enforced; that the City did not enforce the removal of some trees by developers without permits; and that he would support the establishment of a citizens' committee. At the request of Mayor Ward, Mr. Quigley elaborated on the City's apparent negligence with regard to enforcing the removal of trees without permits in the vicinity of Pacific Avenue and 19th Street, 1808 Laurel and the vicinity of 17th Street and Elm Avenue.

Kaye Sherback, 1800 Block of Agnes Road, commented on the need to address the tree issue quickly in order to provide accountability for removing trees without permits. She reported that approximately nine trees have been removed from her neighborhood in the past 1 ½ years; that she supported the formation of a citizens' committee to be the "eyes and ears" to assist staff with tree issues; and suggested that the public visit gardenmagicco.com to become better educated about trees.

David Miller, 9th Street & Peck Avenue, contended that the proposed tree ordinance could affect personal property owners' rights and described his personal experience with trying to preserve a tree while building a home. He also commented on the school district removing trees.

Mayor Ward closed the Public Hearing at 9:20 p.m.

In response to questions from the Council, Senior Planner Jester explained that dead trees in the public right of way are removed by the City; that the City can require the removal of dead trees on private property if they are in eminent danger; and that the City does not have an employee in charge of looking at problematic trees, so the public should bring enforcement issues to the attention of City staff. She explained that while the City has not established set fines for tree removals without permits, she discusses the appropriate fine for the removal of mature trees with the City Attorney.

City Manager Dolan pointed out that the trimming of trees in the public right-of-way is handled by a private contractor and that City staff will contact the contractor to discuss the problem of dying trees along Veterans' Parkway as referred to earlier in this discussion.

City Attorney Wadden advised that, at this time, tree removal fines are negotiated, they are not built into the Tree Ordinance, and that the value of a tree removed without a permit is taken into account when negotiating the fine.

Addressing issues raised by Mr. Quigley, Senior Planner Jester related her understanding that the tree at 1808 Laurel Avenue was very severely trimmed, and the current Ordinance does not regulate that, and that the trees removed from the side yard at 19th Street and Laurel Avenue were not protected except one was a protected tree as it was largely in the public right-of-way.

City Manager Dolan advised that the proposed Tree Ordinance addresses the severe trimming of trees with the intent to kill them.

In response to Councilmember Fahey's question as to whether the fact that a tree removal permit would have been granted is taken into account when determining fines for trees removed without permits, City Attorney Wadden indicated that, depending on the circumstances, if a damaged tree is removed without a permit, a fine would most likely be imposed, but it could result in less punitive actions.

Senior Planner Jester explained that the situation of a neighbor severely trimming a tree on another individual's property is clarified in the proposed Tree Ordinance; that, should the tree be trimmed to the point that it is damaged, a fine would be imposed; that the idea of requiring a replacement tree would be discussed with the City Attorney; and that a citizens' committee could be beneficial to staff to act as the "eyes and ears" of the community in identifying tree issues.

Councilmember Fahey agreed with establishing a citizens' committee to watch for tree problems and provide residents with ideas about replacement trees; questioned the need for a full-time arborist and recommended that penalties for unpermitted tree removals be discussed separately from this item.

Councilmember Aldinger voiced his support for compiling a list of replacement trees similar to Pasadena's; agreed that a citizens' committee could act as a neighborhood watch; emphasized that repeat offenders should be fined; and agreed that there should be restrictions against severe pruning to destroy trees.

Councilmember Montgomery supported the compilation of a replacement tree list; a citizens' committee; and a replacement tree ratio of more than one-to-one. It was his opinion that the City's regulations should be simple; that older mature trees must be protected; that contractors could be required to post bonds to protect trees during construction; and that it could be within the citizens' committee's purview to determine if an arborist's opinion is needed.

Mayor Pro Tem Tell remarked that the proposed Tree Ordinance is a great improvement and agreed with establishing a citizens' committee, which could inventory the protected trees in Manhattan Beach. He commented on the importance of streamlining the standards for granting tree removal permits; agreed with tree relocation requirements, as long as the health of the tree is good; and entertained the idea of requiring a property buyer to sign a form acknowledging that certain trees on the property they purchase are protected. He also voiced his concern that the side yard setback detail will create availability issues and called attention to the inadequacy of the City's current tree provisions related to the sale of property.

Mayor Ward supported a measured approach to defining tree provisions rather than speeding the process along; commented that he did not see the need for a full-time arborist; and agreed with requiring a property buyer to sign a form acknowledging that certain trees are protected. He voiced his understanding that the proposed Tree Ordinance includes provisions to protect property owners' rights and agreed that a citizens' committee should be more of an advisory/review type group rather than an enforcer which pits one resident against another.

At the request of Councilmember Fahey, Senior Planner Jester shared information about provisions for protecting the rights of property owners building new homes and that information regarding trees in side yard setbacks is located in the "Purpose" section of the proposed Tree Ordinance. She explained that contractors doing work in the public right-of-way are required to post bonds and have liability insurance and that the formation of a species specific protected tree list would involve an arborist's report for every tree.

Councilmember Fahey agreed with requiring property buyers to sign a form acknowledging that certain trees on a property they purchase are protected. She also recommended, and Mayor Pro Tem Tell agreed, that the proposed Tree Ordinance include a section specifically devoted to balancing property owners' rights relative to new construction along with trees in street side setbacks.

City Manager Dolan pointed out that, during the first year of the Ordinance, a tree list compiled by City staff and the citizens' committee could be presented at the time of the first-year Ordinance review.

In response to questions from Council, Senior Planner Jester advised that there is no formal follow up on the survival of replacement trees, which must be replaced if they die, but, staff does informally follow up on them; that the City's updated draft street tree list, which is also used as a replacement tree list, contains approximately 80 trees, but, is not all-inclusive; and that staff could not support requiring an arborist's report for every tree to be removed.

Mayor Ward stated that he could not support a replacement tree list, particularly if tree removals would involve an additional cost to property owners to consult an arborist, and related his understanding that the City currently has an unofficial replacement tree list.

Councilmember Fahey asserted that a citizens' committee should be a resource - not a decision-making body and recommended adding language to the proposed Ordinance to include that the relocating of trees is permitted only when doing so does not affect the health of the trees.

Mayor Pro Tem Tell pointed out that, if need be, staff has the ability to seek the advice of an arborist and recommended that the proposed Tree Ordinance be modified to include guidelines for relocating trees, balancing the rights of property owners to build with trees in side yard setbacks and adding a tree disclosure form for individuals purchasing a property.

Councilmember Montgomery voiced his opinion that the cost of an arborist is minimal compared to the cost of constructing a home and that a construction bond requirement should be added to the proposed Tree Ordinance.

City Attorney Wadden questioned if the Council would like to add a construction bond requirement to protect all trees, or if requiring one should be within staff's discretion.

City Manager Dolan reviewed that information regarding the role of a citizens' committee, the requirement of a construction bond to protect trees, requiring disclosure forms be signed when trees are protected, the addition of wording relative to relocating trees will be added to the proposed Tree Ordinance and provided for the Council's review at a future City Council meeting, and clarification that buildings take precedence over streetside tree protection.

Councilmember Fahey concluded by expressing her concern that the City has very few employees who are knowledgeable about trees.

GENERAL BUSINESS

06/0117.12-17 Consideration of Utility Undergrounding Assessment Districts

Mayor Pro Tem Tell reported on the progress of the Utility Undergrounding Assessment District Finance Assistance Subcommittee to examine possible means of providing financial assistance to property owners negatively impacted by utility undergrounding and added that further information on the Subcommittee's recommendations will be presented to the Council in the near future.

Mayor Ward, on behalf of the Council, thanked Mayor Pro Tem Tell for serving as Chairman of



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Laurie B. Jester, Senior Planner

DATE: February 7, 2006

SUBJECT: Consideration of Planning Commission Recommendation for City Council 2005-2007 Work Plan Item to Amend the Tree Preservation Regulations, Section 10.52.120 of the Zoning Code

RECOMMENDATION:

Staff recommends that the City Council **CONDUCT THE PUBLIC HEARING, WAIVE FURTHER READING AND INTRODUCE ORDINANCE NO. 2082.**

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action

BACKGROUND:

The City's Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented. After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting and at that meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

In May 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance. In July 2005, the City Council adopted the 2005-2007 Work Plan which included this item as one of the top Work Plan priority items for the Department, reviewed a status report on the Tree Preservation regulations, and provided direction on revisions to the regulations.

On August 24, 2005 the Planning Commission conducted a public hearing, discussed the proposed Code Amendments and adopted Resolution No. PC 05-11, with a 5:0 vote. On September 20, 2005 staff presented the Planning Commission recommendation, including a draft Ordinance, to the City Council at a public hearing. At that meeting the City Council supported the majority of the Planning Commissions recommendations with a few modifications, and asked that staff and the Planning Commission to further study the protected and replacement tree sizes, and contact individuals to provide input on the issue.

On October 26, 2005, the Planning Commission held a public hearing, took public input, provided direction to staff for further revisions to the Tree Ordinance, and continued the public hearing to December 14, 2005. At the December 14th meeting the Commission took further public input at the continued public hearing and adopted Resolution No. PC 05-20 (Attachment B) recommending to the City Council revisions to the Tree Preservation regulations.

DISCUSSION:

Current regulations

The City's Tree Preservation Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. Trees that are removed are required to be replaced with a minimum of one 24" box tree. The number, size, species, and location of replacement trees are subject to review and approval by the Director of Community Development. At this time, based on City Council direction, the Ordinance is implemented as more of a "preservation" regulation, not a "removal and replacement" regulation. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

The attached Planning Commission staff report (Attachment C) provides a complete description of the Tree Permit process. The following sections provide a summary of the most recent revisions to the Tree Ordinance as recommended by the Planning Commission. The proposed revisions will clarify the City's Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

City Council and Planning Commission comments

At the September 20th meeting some Councilmembers expressed frustration that the proposed ordinance was too difficult and complex to enforce and implement, and an easier to implement approach should be explored. Some of the Commissioners' commented that the issue is so complex that any Ordinance will not be perfect. It was also indicated by some Councilmembers that the smaller trees, less than 12" trunk diameter, were not as critical to protect. The City Council requested that staff and the Planning Commission reevaluate the approach to the protected and replacement tree sizes. All seemed to agree with staff that the issue that they and the community perceive is that currently we have small homes with large trees and these are being replaced with large homes with small trees, which is changing the character of residential neighborhoods.

Some of the Council suggested that a better definition of a "mature" tree should be provided. Also some Councilmembers suggested that incentive programs to protect mature trees should be considered, and if mature trees are removed that they should be replaced with mature trees. The Council commented that trees that are removed should be replaced with trees that are a certain ratio to the size of the tree that is removed. The City Council indicated that one of their goals was to preserve and enhance the existing tree canopies on individual residential properties as well as the

overall neighborhood, in order to maintain the neighborhood character.

At the October 26th and December 14th Planning Commission meetings all of these issues raised by the City Council were discussed and addressed. The Planning Commission discussed the importance of notifying the community of the regulations. Defining a mature tree, trunk diameter of trees and replacement size of trees was discussed. The Commission clarified that all required replacement trees are protected regardless of their trunk diameter. They felt that using canopy size and/or height to define maturity is difficult due to the individual growth, environment and pruning factors. The Councils goal of keeping the regulations simple and easy to enforce was discussed. The Commission stated that the residential code enforcement officer could help inform contractors of the tree permit regulations and a citizens committee probably is not necessary, although the City Council could review this issue. Posting signs at the site with the Tree Permit regulations was proposed, as well as requiring a review of the new regulations in one year.

Community input

On September 20th the City Council asked that individuals be contacted to provide input on the Tree Ordinance, specifically the issue of protected tree size and replacement tree size. Staff provided notice of the Planning Commission meetings and tonight's City Council meeting, as well as copies of the staff reports to a number of individuals that have expressed interest in the Tree Ordinance.

At the October 26th Planning Commission meeting a number of residents spoke on protecting the tree canopy. Generally the residents felt that all trees in the front yard and the streetside should be preserved to the extent feasible. They felt that if trees are removed illegally that there should be severe financial penalties. Some residents stated that the regulations should be simple to enforce. Other members of the public have commented to staff that they feel that removal of trees is acceptable as long as large mature specimen trees are planted as replacements. They feel that when new homes are constructed that it is an opportunity to remove existing trees that may not be the most appropriate specimens for the particular location, or that may be older and starting to decline, and then these trees can be replaced with new large, healthy specimens that are more suited to the environment.

At the December 14th meeting some residents expressed the importance of notifying the community about the Tree Permit process and regulations. They suggested that a citizens committee be formed to review Tree Permits as well as create a replacement tree list. They suggested strong enforcement and fines for repeat violators and those who are aware of the regulations, and more leniency for people not familiar with the requirements. Protection of trees during construction and limiting hardscape surrounding trees was encouraged. The importance of providing a definition of a mature tree and requiring replacement trees in relationship to the size of the trees removed was discussed.

A number of letters were also received from residents and are attached to this report (Attachment D). One suggested mature shrubs, specifically succulents, be protected. The Councils direction was to protect mature trees and therefore protection for shrubs is not proposed. Another comment related to Palo Altos regulations and their strict enforcement and fines. These provisions will be addressed separately as discussed below. Another letter discussed improper pruning, and a citizens committee, which was addressed by the Commission and is further discussed below.

Regarding the definition of a mature tree, one resident suggesting using the International Society of Arborists (ISA) standard related to canopy size. The City arborist discussed a number of options for defining a mature or "protected" tree, as defined within the Ordinance, and suggested that we continue to use trunk diameter as other standards have too many variables and ISA, as well as appraisals and other cities tree regulations, generally use trunk diameter to define protected trees. Using trunk diameter to define protected trees also meets the Council goal of providing a simple, easy to implement ordinance.

Two other very similar e-mails (dated 1/21/06 and 1/31/06) suggested educating the public using the new residential code enforcement officer, requiring a 24" not 36" box size replacement tree, very large fines for violators, and requiring an arborist report and direct involvement during the design process and prior to issuance of a certificate of occupancy. Most of these issues were discussed by the Commission and are addressed elsewhere in this report. An arborist report is often required when a tree is proposed to be removed, and arborist involvement is encouraged, although not required, up front. Staff believes that requiring an arborist to be involved up front in the design would complicate the regulations and staff was directed by the Council to simplify the regulations.

Proposed Code revisions

Staff is striving to provide a balanced approach to addressing all of the views expressed. The following revisions to the Code are proposed to address the comments and concerns from the Planning Commission and the community raised at the October 26 and December 14, 2005 meetings, as well as the direction provided by the City Council.

Tree canopy preservation and enhancement

In order to meet the City Councils goal of protecting the existing tree canopies, the Purpose section, 10.52.120 (A.) of the regulations will include language to ensure the preservation and enhancement of the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The Council and Commission had discussed protecting smaller trees (6" to 12" trunk diameter) and determined that the current standards which protect trees with a 12" or greater diameter would preserve the tree canopy most effectively. Staff also added new provisions in Section F. 4, which requires at least one new 36" box tree be planted per property, which is intended to preserve and enhance the City's overall tree canopy.

Tree list

Some of the Planning Commissioners and residents commented that they would support having a list of trees from which to select an appropriate replacement tree. The City has a street tree list that is currently also used as a guideline for replacement trees on private property, which is referenced in the Ordinance in Section 10.52.120 G. The City arborist is currently assisting staff in updating the current list of street trees so that replacements fit the soil conditions and climate of Manhattan Beach and suit the smaller and larger sized lots.

Posting of Tree Regulation

The Commission and residents had suggested that advisory signs be posted on the property identifying the tree protection requirements. Section 10.52.120 D 3 of the regulations has been revised to include this requirement. Also in response to the Council and Commission to

continue to inform the public of the regulations, notice of the existing and proposed requirements are regularly provided in the Construction Newsletter, and to interested residents and will be provided on the water bill and Recreation Newsletter.

Exceptions- Pruning

Although not discussed by the Council, the Commission recommendation includes provisions in Section 10.52.120 H. 4. and 5. that trees would be required to be pruned to International Society of Arboriculture (ISA) standards, but no permit would be required for pruning. Pruning should not damage the health and structure of a tree.

Annual review

Based on the recommendation from the Planning Commission, Section 10.52.120 3. of the Ordinance requires a review of the amendments one year after the effective date.

Fines

The Commission felt that fines need to be very high to discourage developers and others from illegally removing trees, and that there should be different fines for the intentional removal of trees or other violations of the Ordinance by people that are aware of the regulations versus unintentional removal by those who are not familiar with the requirements. Revisions related to these recommendations have not been incorporated into the Ordinance as fines will be reviewed separately by the City Council and adopted by Resolution at a later date.

Citizens Committee

A number of residents felt that a citizens committee could be beneficial, however the Commission felt that the residential code enforcement officer could help inform the contractors and residents of the regulations. The local environment organization, VOICE, has been discussing the regulations at their regular meetings and staff has provided information on the tree regulations to the group.

Other revisions previously approved in concept by City Council

The following is a summary of the revisions to the Tree Ordinance as directed by the City Council on September 20th. The proposed revisions will clarify the City's Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

Emergency Removal

The Exemptions section of the Code (Section 10.52.120 H. 1.) currently allows removal of trees in cases of emergency. This section requires that a Tree Permit application then be submitted within five working days after removal of a tree. The revision requires approval by the Director of Community Development prior to removal.

Trees on Adjacent Properties

There are two sections of the Code that address trees on adjacent properties that conflict. These two Sections (10.52.120 D and 10.52.120 H. 4) have been revised so that adjacent property trees are reasonably protected. Any pruning of roots or branches on adjacent properties that could potentially damage the health of trees is not permitted. Pruning will not require a permit, however if the pruning damages the health of the tree then it becomes a civil matter between the two property owners.

Trees Exempt from Protection

Section 10.52.120 H. 2 exempts deciduous fruit bearing trees and two fan Palm trees from the protection regulations, so currently these trees can be removed without a permit and do not need to be replaced. Staff had suggested revisions that would eliminate this exemption. With this revision staff would anticipate that fruit and Palm tree removal requests would generally be approved and a replacement tree would be required. There was not a City Council consensus on this proposed revision so no changes are included in the draft Ordinance.

Street Side yard trees

The Tree Ordinance only protects trees in the 20 foot front yard setback. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees are not protected. These streetside trees will be protected by the Ordinance the same as front yard trees are currently protected. If it is not possible to protect and retain trees then they can be removed with approval of a Tree Permit. Any removed tree will be required to be replaced with a minimum 36-inch box size tree (Sections 10.52.120 D. 1 and G.).

Violations and Penalties

Section 10.52.120 J. establishes standards for violations of the Tree Preservation standards. As an addition to this section an administrative fine, Section K., has been added for any violation of the tree preservation regulations. A fee resolution will be brought back to the City Council at a later date.

Right-of-Way Improvements

Public Works and Planning staff currently work together to look at alternative designs and materials in situations where right-of-way improvements may impact trees. Required public improvements take priority over preserving trees, however alternative designs will be used to preserve trees where feasible, and the revisions (Section D. 6.) codify these current practices.

Purpose

The purpose section has been expanded to discuss the design of residences being required to consider and accommodate existing protected trees when feasible, and that the preservation of trees increases property values, provides cooling shade and beauty, and minimizes spread of disease to healthy trees. (Section A).

Miscellaneous revisions and abuse of trees

A few language changes for consistency with current procedures and internal language consistency will be provided. These include revisions related to the arborist report, the tree plan, and replacement trees. Additionally, the abuse or mutilation of trees can severely damage or kill a tree so new language has been added into Section 10.52.120 B.2., so that damage of trees is a violation of the regulations, consistent with the public tree requirements.

CONCLUSION:

The proposed revisions to the Tree Preservation regulations are intended to meet the City Councils goal of preserving and enhancing the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The revisions

Agenda Item #: _____

are also intended to simplify the regulations and make them easier to enforce.

Staff requests that the City Council hold the public hearing and introduce the attached Ordinance. All of the proposed changes to the existing regulations are shown as redline/strikeout text.

- Attachments:
- A. Draft City Council Ordinance No. 2082
 - B. Planning Commission Resolution No. PC 05-20
 - C. Planning Commission minute excerpts, staff report, and attachments – December 14, 2005
 - D. Public comment letters and e-mails

H:\Work Plan 2005-2007\Tree Ordinance\CC Report-2-7-06.doc

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Laurie B. Jester

From: Sherbak Family [sherbak.mb@verizon.net]
Sent: Tuesday, February 28, 2006 9:37 AM
To: ljester@citymb.info; jprice@citymb.info; rthompson@citymb.info; Geoff trees Dolan
Cc: Bob trees Lynn; Bridget Kimball; Bryan trees Le; Duncan Kimball; Earl trees Waggoner; Gary trees Osterhout; Mark trees Quigley; Mike trees Garcia; Peggy Curry; Susan trees Flora; Whitney trees Knueppel; Portia trees Cohen; a.sbarklow@verizon.net; Gerry trees O'Connor; Louise Quigley; dlessner@citymb.info; bbohner@citymb.info; jschlager@citymb.info; dsimon@citymb.info; msavikas@citymb.info; rmontgomery@citymb.info; jaldinger@citymb.info; jfahey@citymb.info; ntell@citymb.info; mward@citymb.info
Subject: March 7th input

For inclusion in the City Council agenda package for the March 7, 2006 meeting.

Hello Richard,

Thanks for our telecon Monday, March 28th, in response to our tree committee letter. It was our understanding from the February 7th Council meeting that staff would meet with the Tree Committee to establish a mission and tasks. We would like to meet with you this week to accomplish this task and comply with the council directive. I appreciate that your staff is pressed for time so I have taken the liberty of drafting some wording for the ordinance. After reviewing the Tree City USA application information (reference email below) we feel strongly the revised ordinance should include a provision for a tree committee or board.

May I suggest: Add a section L which will comply with the Tree City USA recommendations. I believe this is sufficient wording to comply with the council directive and guide future work which was outlined in my letter dated February 20, 2006.

A city staff member will be appointed as the person legally responsible for the care and management of the community's trees. In addition a Tree Board will be maintained and is chartered to work with appointed City Tree Manager. The tree board is charged to develop and administer a comprehensive tree management program. The City Tree Manager and Tree Board are charged with the responsibility for writing and implementing an annual community forestry work plan. The Tree Board will be comprised of concerned volunteer citizens representing a broad community base with limited, staggered terms of service of 3 years.

See the attached list of Manhattan Beach residents who support the specific tree committee tasks outlined in our February 20th letter to you. In just one week we have collected the names of 75 supporters and this list is growing daily.

Thanks,
 Kaye Sherbak
 310.985.4861

The following is from <http://www.arborday.org/programs/TreeCityStandards.cfm>
 Further explanation is available on this website.

The Four Standards of a Tree City USA

To qualify for Tree City USA, a town or city must meet four standards established by The National Arbor Day Foundation and the National Association of State Foresters.

These standards were established to ensure that every qualifying community would have a viable tree

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management plan and program.

It is important to note that they were also designed so that no community would be excluded because of size.

1. A Tree Board or Department
2. A Tree Care Ordinance
3. A Community Forestry Program With an Annual Budget of at Least \$2 Per Capita
4. An Arbor Day Observance and Proclamation

Laurie B. Jester

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From: Louise Quigley [ltquigley@verizon.net]
Sent: Tuesday, February 28, 2006 9:01 AM
To: Kaye Sherbak
Subject: Tree Ordinance Supporters.doc

FEBURARY 22, 2006**MANHATTAN BEACH RESIDENTS WHO SUPPORT
THE TREE ORDINANCE****This List Is Growing Daily**

1. **Deborah and Neil Gunny** **2908 Elm Ave. MB, 90266**
2. **Liz Chalmers** **560 33rd Street, MB, 90266**
3. **Marianne Fraher** **609 17th Street, MB, 90266**
4. **Richard D. Wheeler** **872 3rd Street, MB, 90266**
5. **Tim Wheeler** **225 N. Poinsettia Ave. MB 90266**
6. **Louise Quigley** **745 19th St MB 90266**
7. **Mark Quigley** **745 19th St MB 90266**
8. **Mary Pat Dorr** **1713 Poinsettia Ave, MB 90266**
9. **Paul Dorr** **1713 Poinsttia Ave, MB 90266**
10. **Nancy Wheeler** **225 N. Poinsettia Ave. MB 90266**
11. **Michael Kretzmer** **1148 Manhattan Ave, #1 MB 90266**

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12. Ron McIntire 860 8th St. MB 90266
13. Laura McIntire 860 8th St. MB 90266
14. Margo Thole 2904 Elm Ave. MB 90266
15. Russel Caflisch 2904 Elm Ave. MB 90266
16. Robert Von Bergen 401 Anderson St, MB 90266
17. Robin Von Bergen 401 Anderson St, MB 90266
18. Lisa Guidone 1207 5th St. MB 90266
19. Ron Guidone 120 5th St. MB 90266
20. Cathy Heutmaker 2100 Palm Ave. MB 90266
21. Geoffrey Wells 407 N. Dianthus St. MB 90266
22. Janet Wells 407 N. Dianthus St. MB 90266
23. Scott Chalmers 560 33rd St. MB 90266
24. Linda Flanagan 2000 Agnes Rd. MB 90266
25. Joe Flanagan 2000 Agnes Rd. MB 90266
26. Julie Stone 2201 Agnes Rd MB 90266
27. Jerry Stone 2201 Agnes Road MB 90266
28. Barb Collins 2301 John St. MB 90266
29. Bill Collins 2301 John St. MB 90266
30. Mary Ann Griffiths 616 8th St. MB 90266
31. Barry Griffiths 616 8th St. MB 90266
32. Matthew Wheeler 2708 Highland Ave. MB 90266

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33. Earle Kneifel 1901 Laurel Ave. MB 90266
34. Sally Kneifel 1901 Laurel Ave. MB 90266
35. Gerry O'Connor 524 Harkness St, MB 90266
36. Lisa Scalia 524 Harkness St., MB 90266
37. Edward C. Caprielian 613 33rd St. MB 90266
38. Deborah J. Caprielian 613 33rd St. MB 90266
39. Jennifer L. Caprielian 613 33rd St, MB 90266
40. Marissa A. Caprielian 613 33rd St MB 90266
41. Cynthia Cohen 437 B Marine Ave MB 90266
42. Dayle Eisenhauer 2400 Pine Ave, MB 90266
43. Reed Eisenhauer 2400 Pine Ave, MB 90266
44. Joe Franklin 2001 Pine Ave, MB 90266
45. Linda Geoghegan 436 2nd St, MB 90266
46. Kyle Geoghegan 436 2nd St, MB 90266
47. Tom Lyons 574 33rd St, MB 90266
48. Faith Lyons 574 33rd St. MB, 90266
49. Charlotte Marshall 1638 3rd St, MB 90266
50. Jon Vogl 1206 6th St. MB 90266
51. Sue Vogl 1206 6th St., MB 90266
52. Dave Wachtfogel 591 31st. St, MB 90266

53. Gloria Wachtfogel 591 31st. St MB 90266
54. Kraig Kupiec 1829 Ages Rd. MB 90266
55. Linda Kupiec 1829 Agnes Rd, MB 90266
56. Peggy Curry peggy@kitchenblessings.com
57. Patti Palmer PKPalmer@webtv.net
58. Jeri O'Donnell wordwright@earthlink.net
59. Saskia Subramanian saskia@ucla.edu
60. Helene Lynn 1644 19th St, MB 90266
61. Bob Lynn 1644 19th St, MB 90266
62. Patti Palmer 1608 Walnut, MB 90266
63. Lisa Ryder Moore 1940 Monterey, HB
64. Gary Osterhout 598 31st St., MB 90266
65. Portia Cohen 1535 Ruhland Ave, MB 90266
66. Susan Flora 648 19th St, MB 90266
67. Rick Thorton 657 27th St. MB 90266
68. Earl Waggoner 402 25th St., MB 90266
69. Bryan Le 1713 Faymont, MB 90266
70. Kaye Sherbak 1825 Agnes Rd, MB 90266
71. Dennis Sherbak 1825 Agnes Road.
72. Bill Flora 648 19th St., MB 90266
73. Karen Wahlberg 209 15th St. MB 90266

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74. Andrew P. Cohen

1535 Ruhland, MB 90266

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The Four Standards of a Tree City USA

To qualify for Tree City USA, a town or city must meet four standards established by The National Arbor Day Foundation and the National Association of State Foresters.

These standards were established to ensure that every qualifying community would have a viable tree management plan and program.

It is important to note that they were also designed so that no community would be excluded because of size.

1. A Tree Board or Department
2. A Tree Care Ordinance
3. A Community Forestry Program With an Annual Budget of at Least \$2 Per Capita
4. An Arbor Day Observance and Proclamation

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1. A Tree Board or Department

Someone must be legally responsible for the care and management of the community's trees. This may be a professional forester or arborist, an entire forestry department, or a volunteer tree board. Often, both a professional staff and advisory tree board are present, which is a good goal for most communities. A tree board, or commission, is a group of concerned volunteer citizens charged by ordinance with developing and administering a comprehensive tree management program. Balanced, broad-based community involvement is encouraged. Boards function best if not composed entirely of tree-related professionals such as forestry professors, nursery operators, arborists, etc. Fresh ideas and different perspectives are added by citizens with an interest in trees that is entirely avocational. Limited, staggered terms of service will prevent stagnation or burnout, while at the same time assuring continuity.

2. A Tree Care Ordinance

The tree ordinance must designate the establishment of a tree board or forestry department and give this body the responsibility for writing and implementing an annual community forestry work plan. Beyond that, the ordinance should be flexible enough to fit the needs and circumstances of the particular community. A tree ordinance provides an opportunity to set good policy and back it with the force of law when necessary. Ideally, it will provide clear guidance for planting, maintaining and removing trees from streets, parks and other public places. For tips and a checklist of important items to consider in writing or improving a tree ordinance, see Bulletin No. 9.

3. A Community Forestry Program With An Annual Budget Of At Least \$2 Per Capita

Evidence is required that the community has established a community forestry program that is supported by an annual budget of at least \$2 per capita. At first, this may seem like an impossible barrier to some communities. However, a little investigation usually reveals that more than this amount is already being spent by the municipality on its trees. If not, this may signal serious neglect that will cost far more in the long run. In such a case, working toward Tree City USA recognition can be used to re-examine the community's budget priorities and re-direct funds to properly care for its tree resource before it is too late. Ideally, this standard will be met by focusing funding on an annual work plan developed after an inventory is completed and a report is approved by the city council. Such a plan will address species diversity, planting needs, hazardous trees, insect and disease problems and a pattern of regular care such as pruning and watering.

4. An Arbor Day Observance and Proclamation

This is the least challenging and probably the most enjoyable standard to accomplish. An Arbor Day celebration can be simple and brief or an all-day or all-week observation. It can be a simple tree planting event or an award ceremony that honors leading tree planters. For

children, Arbor Day may be their only exposure to the green world or a springboard to discussions about the complex issue of environmental quality. The benefits of Arbor Day go far beyond the shade and beauty of new trees for the next generation. Arbor Day is a golden opportunity for publicity and to educate homeowners about proper tree care. Utility companies can join in to promote planting small trees beneath power lines or being careful when digging. Smokey Bear's fire prevention messages can be worked into the event, as can conservation education about soil erosion or the need to protect wildlife habitat. Still another way to develop Arbor Day is to link it with a tree-related festival. Some that are currently celebrated include dogwood festivals, locust blossom festivals and Macon, Georgia's Cherry Blossom Festival that annually brings more than \$4.25 million into the local economy. In meeting the four standards, help is available! The urban and community forestry coordinator in your state forester's office will be happy to work with communities in taking these first steps toward better community forestry.

To receive a free Tree City USA booklet, call (402) 474-5655
 Monday-Friday
 8:00 a.m. to 5:00 p.m. CST
 or e-mail your request to
treecity@arborday.org



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Are you interested in becoming a designated Tree City?

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Tree City USA is supported by the USDA Forest Service Urban and Community Forestry Program.



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